

Public Lands Council

Reform the Equal Access to Justice Act

No Oversight Creates Waste and Abuse

What is the EAJA?

The Equal Access to Justice Act (EAJA) was designed to level the playing field between private citizens and the vast resources of the federal government. EAJA allows plaintiffs to recover attorney fees and other costs from the federal government when they prevail in a case against the government. In fact, the plaintiff need not even win the case—the government also reimburses plaintiffs who settle out of court.

EAJA: Good Concept; Flawed Execution

Although EAJA was intended to protect citizens' rights, it has become a means for activist groups to target private citizens.

There is no real oversight of EAJA. Millions of dollars in taxpayer money has been distributed with little to no accounting of who received the payments.

Only businesses with a net worth of \$7 million or less are eligible to participate in EAJA. But any nonprofit—regardless of their net worth—is eligible for reimbursement. Some special interest groups using EAJA have a net worth of more than \$50 million.

Often, it is easier for the government to settle cases and pay plaintiffs through EAJA instead of devoting time, staff and resources to a trial.

Radical environmental groups have taken advantage of this situation, filing more than 1500 cases in a 6-year period. EAJA litigation has become a specialization of these special interests and their lawyers, making it easy for them to convince the government to settle and pay their fees.

Equal Access for Special Interests; not Individuals

When radical environmental special interest groups file suit against the government, farmers and ranchers impacted by the suit must join the government case to defend their land, business, or way of life against the lawsuit.

These family farmers must pay crippling legal fees to fight these special interest attacks. Meanwhile, their tax dollars are paying the attorney fees for the special interest groups attacking them.

Hardworking Americans are paying to fight both sides of these legal battles, many of which are frivolous suits, filed on technicalities.



Support the Open EAJA Act of 2010

The Open EAJA Act of 2010 by Reps. Cynthia Lummis (R-WY) and Stephanie Herseth Sandlin (D-SD) would help protect citizens' rights by requiring oversight of EAJA. Specifically, the bill calls for:

- ▶ Accounting of how attorney fees are being awarded under EAJA
- ▶ An annual report to Congress outlining the number, nature and amount of the awards
- ▶ A GAO audit of the use of EAJA funds over the past 15 years

Special Interests vs. Individuals under EAJA

Rancher Tim Lequerica of Oregon would have been put out of business by a suit against the Bureau of Land Management to prevent livestock access to the Owyhee River. So Lequerica and his neighbors joined the government's case to protect their businesses, paying \$42,000 in attorney fees.

The ranchers and special interest groups came to a compromise that would allow livestock access to another source of water. But because the government failed to process the appropriate paperwork, they voluntarily agreed to pay \$128,000 in EAJA funds to the special interest groups.

Lequerica explains, "My tax money paid for every part of the litigation. I paid my personal attorneys to represent me; my tax dollars paid the federal government who failed to do all the paperwork correctly; and my tax dollars paid (these special interests) to sue the federal government."